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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,381

02/10/2004

Motoki Kato

247987US

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22850

7590

03/27/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

DUNN, MISHAWN N

ART UNIT

PAPER NUMBER

2621

NOTIFICATION DATE

DELIVERY MODE

03/27/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/774,381	<b>Applicant(s)</b> KATO ET AL.	
	<b>Examiner</b> MISHAWN DUNN	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14-16 defines a storage medium having a computer program code mechanism embedded in the computer storage medium. The claimed invention would have been statutory had it been worded to include computer program embedded in a computer readable medium. Computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationship between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 8, 9, and 11-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagata et al. (US Pub. No. 2004/0047612).

4. Consider claim 1. Nagata et al. teaches a transport stream recording apparatus comprising: an input unit operable to input a transport packet constituting said transport stream (fig. 10); a generator operable to generate program sequence information indicative of an interval in which a program attribute in said transport stream does not change (pg. 8, para. 0148); and a recording unit operable to record said program sequence information along with said transport stream (pg. 7, para. 0120 and pg. 8, para. 0149).

5. Consider claim 2. Nagata et al. teaches a transport stream recording apparatus according to claim 1, wherein said generator generates program sequence information indicative of the sequence of transport packets that includes no PCR\_PID discontinuity (pg. 8, para. 0148).

6. Consider claim 3. Nagata et al. teaches a transport stream recording apparatus according to claim 1, wherein said generator generates program sequence information indicative of the sequence of transport packets that includes no change of the number of video and/or audio elementary streams (pg. 8, para. 0149).

7. Consider claim 4. Nagata et al. teaches a transport stream recording apparatus according to claim 1, wherein said generator generates program sequence information indicative of the sequence of transport packets that includes no discontinuity of packet identifier of each video and/or audio stream (pg. 8, para. 0148).

8. Consider claim 5. Nagata et al. teaches a transport stream recording apparatus according to claim 1, wherein said generator generates program sequence information indicative of the sequence of transport packets that includes no change of the coding attribute of each video and/or audio stream (pg. 7, para. 0114; fig. 10).

9. Consider claim 8. Nagata et al. teaches a transport stream recording apparatus according to claim 5, wherein said coding attribute includes audio coding method (pg. 8, para. 0149).

10. Consider claim 9. Nagata et al. teaches a transport stream recording apparatus according to claim 5, wherein said coding attribute includes audio component type (pg. 8, para. 0149).

11. Consider claim 12. Nagata et al. teaches a transport stream reproducing apparatus (fig. 10) for reproducing a transport stream recorded on a recording medium, comprising: a reproducing unit operable to reproduce said transport stream and program sequence information from said recording medium, said transport stream including a sequence of transport packets, said program sequence information indicating the sequence of transport packets that includes no program attribute discontinuity; a processor operable to generate output signal to be presented; and a controller operable to control the processor on the basis of the program sequence information (pgs. 7-8, paras. 0131-0132; fig. 10).

12. Claims 11 and 13-16 are rejected using similar reasoning as the corresponding claims above.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 6, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata et al. (US Pub. No. 2004/0047612) in view of Official Notice.

15. Consider claim 6. Nagata et al. teaches all claimed limitations as stated above, except wherein said coding attribute includes video frame frequency.

The examiner takes Official Notice that it is well known in the art to include video frame frequency in the coding attribute of video signal.

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to use, to include video frame frequency in the coding attribute, in order to properly reproduce the video images in a manner that represents the recorded signal.

16. Consider claim 7. Nagata et al. teaches all claimed limitations as stated above, except wherein said coding attribute includes aspect ratio.

The examiner takes Official Notice that it is well known in the art to include aspect ratio in the coding attribute.

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to use, to include aspect ratio in the coding attribute, in order to be able to reproduce the signal with the correct aspect ratio.

17. Consider claim 10. Nagata et al. teaches all claimed limitations as stated above, except wherein said coding attribute includes sampling frequency.

The examiner takes Official Notice that it is well known in the art to include video sampling frequency in the coding attribute of video signal.

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to use, to include video sampling frequency in the coding attribute, in order to facilitate the reception of the signal at the receiving end when transmitting data.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISHAWN DUNN whose telephone number is (571)272-7635. The examiner can normally be reached on Monday - Friday 7:30 aM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MISHAWN DUNN/  
Examiner, Art Unit 2621  
March 17, 2008

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621